

**STATE OF GEORGIA  
COUNTY OF FULTON  
CITY OF SOUTH FULTON**

**ORDINANCE No. 2017-017**

**AN ORDINANCE TO CREATE TITLE 7 OF THE CITY OF SOUTH FULTON  
CODE OF ORDINANCES, MUNICIPAL COURTS, TO ESTABLISH  
MUNICIPAL COURTS OF THE CITY AND FOR OTHER RELATED  
PURPOSES.**

**WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia;

**WHEREAS**, the City Council is authorized by O.C.G.A. § 36-32-1, *et seq.* to establish and maintain a municipal court having jurisdiction over the violation of City ordinances and over such other matters as are by general law made subject to the jurisdiction of municipal court;

**WHEREAS**, pursuant to City Charter Sections 5.10 and 5.13, the City is authorized to create a municipal court for the purpose of serving the City by punishing violations of the City Charter, City ordinances, and other such violations as provided by law;

**WHEREAS**, the City finds it to be in the public interest and for the health, safety, welfare, and well-being of the City and its inhabitants to establish a municipal court to hear such matters;

**THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS**  
as follows:

**Section 1: Establishment of Municipal Courts Ordinance**

Title 7 of the City of South Fulton Code of Ordinances is hereby established, which shall include the following language:

**Title 7: Municipal Courts**

**Section 2: Establishment of Municipal Courts Generally**

Chapter 1 of Title 7 of the City of South Fulton Code of Ordinances is hereby established, which shall include the following language:

**Chapter 1: In General**

**Sec. 7-1001. - Created.**

The city hereby creates the municipal court of the city. The court has the powers and jurisdiction set forth in sections 5.10 through 5.15 of the city Charter.

**Sec. 7-1002. - Judges.**

- (a) In accordance with section 5.11 of the Charter, the chief judge shall be nominated by the mayor and shall be confirmed by resolution of the city council. The chief judge shall serve a term of four years, coincident with the term of the mayor. Compensation of the chief judge and other judges shall be fixed by the city council.
- (b) The chief judge shall perform all duties authorized by state law, the charter, and the Uniform Rules, Municipal Courts of the State of Georgia, as amended from time to time ("Uniform Rules").
- (c) The chief judge shall take any and all such other actions as may be authorized for a chief judge of municipal court pursuant to the Uniform Rules, as may be approved by the council, and city ordinances.
- (d) In accordance with section 5.11(d) of the Charter, the chief judge may be removed for cause by a vote of five members of the city council or upon action taken by the Judicial Qualification Commission.
- (e) The City Council may approve additional municipal court judges by resolution, and the Mayor shall submit nominees to the City Council for approval. The municipal court judges shall serve a term of four years and may be reappointed to consecutive terms thereafter.
- (f) The municipal court judges may only be removed in accordance with the provisions of section 2.16 of the Charter.

**Sec. 7-1003. - Additional personnel.**

- (a) *Clerk of the court.* The municipal court judge shall have the authority to hire or fire a municipal court clerk.
- (b) *Police.* Officers of the city police department or the county police department or the county sheriff's department, or any other law enforcement officer, may execute warrants and other writs in furtherance of the court's jurisdiction and orders.
- (c) *Bailiff.* At least one police department officer will serve as a bailiff whenever the municipal court is in session.
- (d) *Solicitor.* In accordance with section 4.12 of the Charter, the city attorney may be or may retain the prosecuting officer or solicitor in the municipal court, subject to the approval of the city council. The council may also, from time to time, appoint and contract with other attorneys who are members of the State Bar of Georgia to serve as a prosecuting attorney in municipal court. The compensation of said attorney shall be determined by the council.



#### **Sec. 7-1004. - Court sessions.**

The court shall be in session at least one day per month and other times as determined necessary by the clerk of court to keep the court dockets current.

#### **Sec. 7-1005. - Court fees.**

- (a) In accordance with section 5.13 of the Charter, the municipal court judges may set a schedule of fees to defray the cost of operation.
- (b) In accordance with section 5.13 of the Charter, the court may set city fines for violations of city ordinances, provided such fines do not exceed the statutory limits established by law.

#### **Sec. 7-1006. - Authority to enact rules and regulations.**

The chief judge has the full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court. All rules shall be subject to the approval of the council. Such rules shall be filed with the city clerk and made available on the city website or by other means determined by the council. Upon request, such rules must be furnished to all defendants in municipal court proceedings at least 48 hours prior to said proceedings.

All rules proposed by the municipal court must follow the procedures outlined in the Uniform Rules, Municipal Courts of Georgia.

#### **Sec. 7-1007. - Contempt of court.**

The court may find persons in contempt of court and punish said persons in accordance with section 5.13 of the Charter.

#### **Sec. 7-1008. - Fines.**

- (a) For fines that may be due by any defendant, execution may be issued by the court clerk and collected as provided by law. The municipal court shall have the discretion to enter fines consistent with this Code, and state and federal law.
- (b) Persons charged with traffic violations or other offenses as specified by the judge may, prior to the time for their court appearance, plead guilty in writing and pay to the city as their fine the amount set as the appearance bond for the offense charged. Those persons charged with driving under the influence of alcohol or drugs and other serious offenses, as determined by the municipal court judge, shall be required in all cases to appear before the court for disposition of the case.

#### **Sec. 7-1009. - Sentences.**

In addition to any applicable fines, and upon a judgment or plea of guilty or pretrial diversion, the municipal court judge may impose sentence of confinement, compulsory work, or both; commit the defendant to confinement, compulsory work or both; suspend the execution of the sentence in whole or in part; place the defendant on probation; or defer the execution of the sentence or any portion or portions thereof to one or more fixed dates in the future. The court may punish for violations within its jurisdiction not exceeding a fine of \$1,000.00 or imprisonment for six months, or both; except as otherwise provided by this Code or state law.

### **Sec. 7-1010. - Appeals.**

Unless specified elsewhere in the Code or Charter, all appeals from decisions of the municipal court shall be appealable, by right of certiorari, to the superior court of Fulton County under the laws of the state regulating the granting and issuance of writs of certiorari.

## **Chapter 2 - BAIL**

### **Sec. 7-2001. - General provisions.**

Bail and bond considerations must be consistent with section 5.13(e) of the Charter and the Rule 18 of Uniform Rules, Municipal Courts of Georgia.

### **Sec. 7-2002. - Minor traffic offenses.**

- (a) Pursuant to O.C.G.A. § 17-6-11, any person cited for a traffic offense shall be released in lieu of bail upon showing his or her driver's license. This provision does not apply to any charge of driving under the influence or other serious offenses designated by the chief judge.
- (b) All persons arrested or notified by citation or ticket of parking violations shall be released on their own recognizance.

### **Sec. 7-2003. - Professional bondsmen.**

No professional bondsman shall be accepted as surety on a bail bond unless he holds a current business license in the city, is approved by the chief of police, and has fully complied with all other city requirements for bonding companies.

### **Sec. 7-2004. - Failure or refusal to give bond.**



If the accused or a witness shall fail or refuse to give the bond and security as required under this chapter, the person so failing or refusing may be confined or kept under guard, so as to be present to abide the trial or to testify as the case may be.

### **Chapter 3 - COURT PROCEDURE**

#### **Sec. 7-3001 - Summons—Issuance.**

Any member of the department of police, the solicitor of the municipal court and the assistant solicitor, in all cases where a complaint is made or information is obtained of any violation of this Code or other laws or ordinances of the city, shall issue a summons, directed to the accused, requiring the accused to appear before the municipal court to answer this charge. The summons shall designate the time and place of trial and shall be signed by the member of the department of police, the solicitor or assistant solicitor issuing it and a copy thereof shall be served upon the accused either personally or by leaving the copy at the place of residence of the accused.

#### **Sec. 7-3002. - Same—Failure to appear.**

It shall be unlawful for any defendant lawfully summoned to answer charges in the municipal court to either fail, neglect or refuse to appear at the time and place specified in the summons or fail to provide a satisfactory explanation for this absence. Failure to appear in municipal court for any noticed appearance may be cause for the court to continue the case until such time as the court shall direct, and the court may issue an order requiring the police chief, or other members of the department of police, to arrest the defendant and bring the defendant before the court to answer both the initial charges and the charge for failing to appear. The chief of corrections shall keep the defendant in custody until the defendant is brought before the court, unless the defendant posts bond for appearance, as provided by law. Nothing herein stated shall be construed to abridge the right of the solicitor to bring an action against the defendant.

#### **Sec. 7-3003. - Subpoenas—Issuance.**

Whenever the attendance of any witness may be required before the municipal court to establish any fact, the clerk of the municipal court shall issue a subpoena directed to the witness, stating the time and place of trial and the parties to the case, which shall be served as other process by the police chief or other police officers.

#### **Sec. 7-3004. - Same—Failing or refusing to obey.**

If any person lawfully summoned as a witness before the municipal court shall either fail, neglect or refuse to attend the trial for which the person has been summoned or fail to provide a satisfactory explanation for this absence, the person may be cited for

contempt and be fined in a sum not to exceed \$200.00. If the cause is continued because of the absence of this person, the court may issue attachment against the person requiring the person to show cause on the day appointed for trial why the person should not be cited for contempt. The police chief or other police officer shall, by virtue of the attachment, arrest the person and keep the person in custody until the person is brought before the court, unless the person posts bond for appearance, as provided by law.

#### **Sec. 7-3005 - Contempt.**

Any person who, during a sitting of the municipal court, shall be guilty of a contempt of court or who refuses to abide by an order of the court or sentence may be punished in the same manner as that provided in state law for contempt against the superior courts of this state.

#### **Section 3: Severability**

In the event any portion of this ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of the City of South Fulton, Georgia, that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this ordinance which shall remain in full force and effect, as if the invalid or unconstitutional section, sentence, clause or phrase were not originally a part of the ordinance.

#### **Section 4: Repealer**

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

#### **Section 5: Effective Date**

Unless specifically specified elsewhere in this Ordinance, the effective date of this Ordinance shall be November 1, 2017.

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The foregoing Ordinance No. **2017-017** was adopted on **September 13, 2017** and was offered by **Mayor Pro Tem Rowell**, who moved its approval. The motion was seconded by Councilmember **Willis**, and being put to a vote, the result was as follows:

**“SECOND READING”**

	AYE	NAY
William “Bill” Edwards, Mayor	<hr/>	<hr/>
Catherine Foster Rowell, Mayor Pro Tem	<hr/> √	<hr/>
Carmalitha Lizandra Gumbs	<hr/> √	<hr/>
Helen Zenobia Willis	<hr/> √	<hr/>
Gertrude Naeema Gilyard	<hr/> √	<hr/>
Rosie Jackson	<hr/> √	<hr/>
khalid kamau	<hr/> √	<hr/>
Mark Baker	<hr/> √	<hr/>

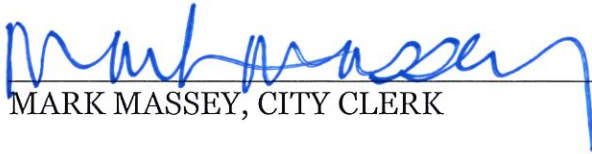
THIS ORDINANCE adopted this 13<sup>th</sup> day of September 2017. CITY OF SOUTH FULTON, GEORGIA

**“SECOND READING”**



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WILLIAM “BILL” EDWARDS, MAYOR

ATTEST:



\_\_\_\_\_  
MARK MASSEY, CITY CLERK



APPROVED AS TO FORM:



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JOSH BELINFANTE, INTERIM CITY ATTORNEY